

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF WASHINGTON**

In the Matter of) No. D 01 - 76
)
 Mark B. Gottschalk,) STIPULATION AND
) ORDER
Licensee.)

Stipulated Facts and Law

1. Licensee Mark B. Gottschalk holds an insurance license issued by the Washington Insurance Commissioner.
2. OIC entered an Order Revoking Insurance License of Licensee pursuant to RCW 48.17.530 effective July 31, 2001. Licensee made a timely demand for hearing, automatically staying the Order Revoking License.
3. In October 1995, licensee formed Caller I-C Technologies, Inc. ("Caller I-C") to engage in the sale of video conferencing equipment. Licensee received funds for the operation of Caller I-C from certain of his insurance clients whose trust and confidence in financial matters he had gained by virtue of his position as their insurance agent. These insurance clients provided funds to Caller I-C in the form of promissory notes, which provided for the payment of bonus interest and, in some instances, other incentive payments.
4. Funds were received from the following:
 - a. Leslie Niemi - \$55,250 over the period of March 1996 through March 1998. Ms. Niemi was an insurance client of the licensee. The source of these funds was Ms. Niemi's insurance policies. Licensee has entered a mutually satisfactory agreement to repay Ms. Niemi.
 - b. Cathy Davis - \$4,000 in the form of a loan in September 1995. Ms. Davis was an insurance client of the licensee. The source of these funds was a loan from her Tax

Sheltered Annuity. Licensee has repaid the \$4,000.

- c. Michael and Denise Radow - \$14,000 in March 1997. Mr. Radow was an insurance client of the licensee. The source of \$4,000 of the funds came from Mr. Radow's Tax Sheltered Annuity, the remaining \$10,000 came from Denise Radow's money market account. Licensee has repaid approximately \$4,400 of these funds.
- d. David Edfeldt - \$13,000 in January 1996. Mr. Edfeldt was an insurance client of the licensee. The source of these funds was a loan from his Tax Sheltered Annuity. No funds have been repaid.

5. The parties desire to settle and resolve this matter on the terms set forth herein. The parties agree that this Stipulation and Settlement Agreement represents a negotiated settlement.

STIPULATION AND CONSENT TO ORDER

Licensee hereby stipulates to entry of the preceding Stipulated Facts and Law, and to the following Order. Licensee enters into this stipulation voluntarily and in lieu of any suspension or revocation of Licensee's license for the conduct set forth above and of any further proceedings in Docket Numbers D 01-76. Licensee acknowledges that if the Order is not fully complied with, the Insurance Commissioner may suspend or revoke the license of Mark B. Gottschalk pursuant to RCW 48.17.530.

Signed this 6th day of December, 2001.

Mark B. Gottschalk
Licensee

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Commissioner

Order

IT IS HEREBY ORDERED that pursuant to RCW 48.17.530 and 48.17.560, and the foregoing Stipulated Facts and Law and Stipulation and Consent to Order that:

1. Fine. Licensee is fined in the amount of \$1,000. This fine shall be paid not less than 15 nor more than 30 days from the date of entry of this Order.
2. Restitution:
 - a. Licensee shall repay David Edfeldt the sum of \$16,500, and David and Denise Radow (unless they irrevocably assigned any such claim) the sum of \$12,500, plus simple interest at the rate of five percent (5%) per annum from the effective date of this order. In the event that Cathy Davis has not been paid in full, Licensee shall pay Cathy Davis the sum of \$1,000 plus simple interest at the rate of 5 percent (5%) per annum from the date of this order. Licensee shall establish a repayment schedule that is mutually agreeable between himself and each party, not to exceed 120 months from the date of entry of this Order. If no plan is agreed upon with the above consumers within 30

days of the date of entry of this Order, then repayment shall be made as follows:

- b. Mark B. Gottschalk shall make payments to David Edfeldt, the Radows and Cathy Davis to be distributed to each party pro rata, with an annual total-of-payments for all consumers of no less than \$3,000. This payment schedule shall continue for as long as it takes to repay each party for the principal and any interest owing. Licensee may increase these payments at any time. In the event the Licensee's IRS total income from all sources exceeds \$50,000, he shall increase his payments as follows:

- 1) In any year in which the IRS total income of Mark B. Gottschalk exceeds \$50,000, the annual payment shall be increased by an additional payment of 40 percent of the excess up to \$75,000, with each consumer receiving a pro rata share of this increase.
- 2) In any year in which the IRS total income of Mark B. Gottschalk exceeds \$75,000, the annual payment shall be increased by the additional \$10,000 included in section (2) above, and a further payment of 50% of the income in excess of \$75,000. Each consumer shall receive a pro-rata share of this increase.

- c. Licensee shall bear all costs of administering repayment.

3. Future Actions. Licensee shall not conduct business transactions with any insurance client including, but not limited to the practices alleged in the Order of Revocation. The licensee shall submit quarterly reports of all restitution payments to the Office of the Insurance Commissioner (OIC) until the parties are repaid in accordance with paragraph 2, above. The Licensee will not engage in the sale of bonds, stocks, or other non-insurance business investment interests to insurance clients without prior notice to and approval by OIC.

4. Audits. OIC has the right to review all transactions and restitution payments, and verify all details therein. These audits are in addition to OIC's statutory authority to examine, audit and investigate activities by insurance agents involving the business of insurance.

5. Noncompliance. Failure to submit quarterly reports in a timely manner or to comply with the restitution schedule as set forth in paragraph 2, above, shall result in an automatic suspension of the license of Mark B. Gottschalk. If such failure to comply is not cured within fifteen (15) business days of the effective date of any such suspension, the license of Mark B. Gottschalk shall be immediately revoked pursuant to RCW 48.17.540(3). Licensee shall be provided written notice of suspension or revocation.

6. Freedom from liens. Licensee warrants that he is not subject to liens, including tax liens, or other impediments that would prevent him making the payments provided for in paragraph 7, above. The Licensee agrees that in the event he takes any actions, such as voluntary bankruptcy, that would prevent him making restitution payments, his license shall be immediately revoked.

8. New business entities. All obligations of the Licensee stated in paragraph 7, above, shall apply to any new or successor business entities which Mark B. Gottschalk establishes, owns or controls.

9. The proceedings in Docket Number D 2001-76 shall be closed and dismissed as settled.

10. This consent order is not a waiver to any claims by the above consumers, except to the extent that payment or partial payment may constitute a defense or partial defense at law.

It is so ordered this 6th day of December, 2001.

By: _____
Scott Jarvis
Deputy Insurance Commissioner

Order Terminating Proceedings

This matter having come before Presiding Officer Patricia Petersen on the Stipulation of the parties, it is

hereby ordered that pursuant to RCW 48.17.530 and 48.17.560, and the foregoing Stipulation and Order that:

OIC Docket Number D 2001-76 is hereby closed and dismissed as settled pursuant to the foregoing Stipulation of the parties.

SIGNED AND ENTERED THIS 7th day of December, 2001

By: _____
Patricia Petersen
Presiding Officer
Office of the Insurance Commissioner